

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6695

JEREMIAH ROYSTER,

Petitioner - Appellant,

versus

ERNEST SUTTON,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (CA-03-260-5-BO)

Submitted: September 10, 2003

Decided: November 10, 2003

Before WIDENER, WILKINSON, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jeremiah Royster, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Jeremiah Royster appeals the district court's order denying relief on Royster's action, which Royster captioned as a 28 U.S.C. § 2254 (2000) petition but which, based on the nature of Royster's claims, the district court properly construed as a civil rights action. We have reviewed the record and find no reversible error, although we note that in light of Royster's status as a state prisoner, his civil rights claims arise under 42 U.S.C. § 1983 (2000), rather than Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 288 (1971). See Preiser v. Rodriguez, 411 U.S. 475, 499 (1973). Accordingly, we affirm the district court's order. See Royster v. Sutton, No. CA-03-260-5-BO (E.D.N.C. April 17, 2003). We deny Royster's motion for a certificate of appealability as unnecessary to our consideration of this appeal. See 28 U.S.C. § 2253(c)(1)(A) (2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED